IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.867 OF 2007

IN

SUIT NO.3689 OF 2000

Bhagwan Gopal Singh & Anr. ...Plaintiffs

Versus

Messrs J.V.Builders & Anr. ...Defendants

.....

Mr.D.G.Rangras for Defendant No.2/Applicant.

Mr.A.C.Singh i/b Mr.D.R.Shah for Plaintiffs.

.....

CORAM: A.M.KHANWILKAR, J.

APRIL 13, 2007.

P.C.

1. Counsel for the Plaintiffs has opposed this Motion on the argument that it is mischievous attempt of the Applicant/Defendant No.2 in the garb of condonation of delay in filing affidavit to bring on record facts so as to denude the Plaintiffs of the relief and interim protection which was granted in their favour. According to the Plaintiffs, the Defendant No.2, after order of

injunction, has proceeded to dispose of properties and has now created record taking advantage of delay in filing affidavit so as to suggest that the third party rights were created in earlier point of time before grant of order of injunction.

2. It is not necessary for this Court to burden the present order with those aspects. Assuming the Plaintiffs are right and succeed in establishing this apprehension, that grievance can be looked into even after the affidavit of the Defendant No.2 is taken on record.

3. In the interest of justice, therefore, I am inclined to allow this Motion in terms of prayer clause (a), on condition that the Defendant No.2 shall pay cost quantified at Rs.5,000/- (Rupees Five Thousand) to the High Court Legal Services Committee within one week from today. Ordered accordingly.

A.M.KHANWILKAR, J.